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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
DOCKET NO.

|                                   |                       |
|-----------------------------------|-----------------------|
| In the Matter of the Suspension ) |                       |
| or Revocation of the License of ) | Administrative Action |
| JOSEPH BROWN, D.D.S. )            |                       |
| Licensed to Practice Dentistry )  | DECISION AND ORDER    |
| in the State of New Jersey )      |                       |

This matter was opened to the New Jersey State Board of Dentistry (Board) upon the filing of a Notice of Motion for Enforcement of Board Order and Suspension of License by Deborah T. Poritz, Attorney General of New Jersey, by Kathy Rohr, Deputy Attorney General. In support of the motion was attached the certification of Kathy Rohr, D.A.G.; the January 28, 1991 report from Frederick Rotgers, Psy.D., Staff Clinician of the N.J.D.A. Chemical Dependency Program (C.D.P.); the Reinstatement Order entered by the Board on January 13, 1993; the Amendment to Reinstatement Order of January 13, 1993 entered by the Board on April 21, 1994. These pleadings alleged that Dr. Brown failed to comply with the terms and conditions of the Order filed by the Board on January 13, 1993 as amended by Order filed on April 21, 1994, in that the urine sampling provided by Dr. Brown on September 2, 1994 disclosed a positive confirmed urine test for cocaine.

Dr. Brown did not file an answer to the Motion, but he submitted to the Board through his counsel, Pamela Mandel, Esq.,

written reports from Adele Greenhaus, M.S.W., A.C.S.W., Dr. Brown's treating therapist and Maryann M. Suluki, D.M.D., the associate with whom Dr. Brown practices.

On the return date of the Motion, a hearing on the matter was held on September 28, 1994. Deputy Attorney General Kathy Rohr appeared on behalf of the Attorney General and Pamela Mandel, Esq. appeared on behalf of Dr. Brown. D.A.G. Rohr advised the Board that information had been received from Dr. Rotgers that a laboratory report disclosed a confirmed positive urine for cocaine for a sampling of Dr. Brown's taken on September 2, 1994 utilizing a forensic chain of custody. The Board was advised that such a confirmed positive for cocaine is cause for suspension of Dr. Brown's license as it is considered a violation of the January 13, 1993 Board Order of Reinstatement which sets forth at paragraph 3 that any confirmed positive urine test shall be presumed valid.

Dr. Brown testified to the Board on his own behalf. He advised the Board that he used cocaine on two occasions, the first time occurred on or about August 27, 1994 and the second time he used the drug was on or about September 15, 1994. He stated that he used the cocaine the first time when his car had been stolen and for the second time after his apartment had been broken into. During this time period, he stated that he had also cut back on his participation in support groups and had not been attending weekly therapy sessions.

In closing, Ms. Mandel urged the Board to give Dr. Brown another chance. Counsel argued that Dr. Brown experienced his

first relapse after being clean for three years. She stated that the theft of Dr. Brown's car did him in. The Board, after hearing closing arguments from both counsel, resolved to move into executive session in order to deliberate on the matter.

The Board finds that Dr. Brown has failed to comply with a substantive term of the Reinstatement Order filed with the Board on January 13, 1993 in that a laboratory report for a urine sampling provided on September 7, 1994 disclosed a positive confirmed urine test for Dr. Brown despite the fact that continued licensure for Dr. Brown with restrictions is contingent upon his remaining drug free.

Accordingly, the Board finds there is a basis for ordering sanctions against Dr. Brown in light of the fact that this confirmed positive urine constitutes a second offense and that Dr. Brown has admitted his failure to comply with the Board's Reinstatement Order. The Reinstatement Order permitted Dr. Brown to resume the practice of dentistry so long as he complied with the terms and conditions set forth therein. The Board finds it necessary to impose sanctions in this matter and the Board further finds that it is necessary to modify the terms of the prior Orders in view of the confirmed positive urine test. Therefore, in accordance with the Board's findings herein and for good cause shown,

IT IS ON THIS 19<sup>th</sup> DAY OF *October*, 1994,

HEREBY ORDERED THAT:

1. Dr. Brown's license to practice dentistry in the State of New Jersey shall be and hereby is actively suspended for a period of sixty (60) days. The active suspension shall commence for thirty days (30) on October 30, 1994 through November 29, 1994. Dr. Brown shall resume the practice of dentistry on November 30, 1994 through December 31, 1994 and the second thirty (30) day active suspension period shall commence on January 1, 1995 through January 31, 1995. The Board has permitted the active suspension for Dr. Brown to be scheduled in two thirty (30) day suspension periods only as an accommodation to the schedule of Dr. Maryann M. Suluki, D.M.D. who has been helpful to the Board in providing supervision and employment of Dr. Brown in this matter.

2. Urine monitoring shall be increased from twice monthly to twice a week testing under the supervision of the C.D.P. on a random, unannounced basis.


3. Dr. Brown shall attend support groups including the impaired professionals group and AA/NA seven days per week.

4. Dr. Brown shall pay the costs to the State for the proceedings held on September 28, 1994. Upon receipt of a statement of the total costs from Agnes Clark, Executive Director of the Board, Dr. Brown shall submit a certified check or money order to the Board in full payment of the costs within ten (10) days of his receipt of such statement.

5. All other terms and conditions of the Reinstatement Order entered on January 13, 1993 and the Amendment to Reinstatement Order entered on April 21, 1994, which are not

inconsistent with the within Order, shall continue in full force and effect.

6. Respondent may apply for modification of the terms and conditions of the within Order no sooner than one (1) year from the entry date herein.

  
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Stephen Candio, President  
Board of Dentistry